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18 DEMOCRATIC UNDERGROUND, LLC, and  
19 Defendant DAVID ALLEN

20 **UNITED STATES DISTRICT COURT**  
21 **FOR THE DISTRICT OF NEVADA**

22 RIGHTHAVEN LLC, a Nevada limited liability company,  
23 Plaintiff,

24 v.

25 DEMOCRATIC UNDERGROUND, LLC, a District of  
26 Columbia limited-liability company; and DAVID ALLEN,  
27 an individual,  
28 Defendants.

29 DEMOCRATIC UNDERGROUND, LLC, a District of  
30 Columbia limited-liability company,  
31 Counterclaimant,

32 v.

33 RIGHTHAVEN LLC, a Nevada limited liability company,  
34 and STEPHENS MEDIA LLC, a Nevada limited-liability  
35 company,  
36 Counterdefendants.

Case No. 10-01356-RLH (GWF)

**DECLARATION OF  
LAURENCE F. PULGRAM  
IN SUPPORT OF  
DEFENDANTS'  
SUPPLEMENTAL  
MEMORANDUM  
ADDRESSING RECENTLY  
PRODUCED EVIDENCE  
RELATING TO PENDING  
MOTIONS**

1 I, Laurence F. Pulgram, declare as follows:

2 1. I am an attorney licensed to practice law in the state of California and a partner at  
3 Fenwick & West, LLP. I serve as one of the counsel for Defendant / Cross-Complainant  
4 Democratic Underground, LLC and Defendant David Allen (hereinafter “Defendants”) in this  
5 matter.

6 2. I have personal knowledge of the facts stated in this declaration, and if called upon  
7 to do so, could and would competently testify thereto. I make this declaration in support of  
8 Defendants’ Supplemental Memorandum Addressing Recently Produced Evidence Relating to  
9 Pending Motions.

10 3. On December 17, 2010, Defendants served a first set of Requests for Production of  
11 Documents on Plaintiff / Counterdefendant Righthaven, LLC and Counterdefendant Stephens  
12 Media, LLC. Responses by both parties were due on January 18, 2011. The due date was ten  
13 days before Defendants’ due date for their Reply in Support of the Motion for Summary  
14 Judgment was to be filed.

15 4. Amongst the Requests for Production made to Stephens Media were the following:

- 16 ▪ (No. 3) “ALL DOCUMENTS concerning any assignment of rights in the News  
17 Article to Righthaven”;
- 18 ▪ (No. 8) “ALL DOCUMENTS that refer or relate to any ‘monetary  
19 commitments’ referenced in the JULY 19, 2010 ASSIGNMENT”;
- 20 ▪ (No. 10) “ALL DOCUMENTS that refer or relate to any ‘right of reversion’  
21 referenced in the JULY 19, 2010 ASSIGNMENT”;
- 22 ▪ (No. 11) “ALL DOCUMENTS that refer or relate to any ‘good and valuable  
23 consideration’ referenced in the JULY 19, 2010 ASSIGNMENT”;
- 24 ▪ (No. 56) “ALL contracts, agreements, investment DOCUMENTS, or other  
25 terms between YOU and Righthaven.”

26 5. On January 18, 2011, Stephens Media responded with objections to the Requests  
27 for Production. Stephens Media produced no responsive documents.

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- 1           6.       Amongst the Requests for Production made to Righthaven were the following:
- 2                   ▪       (No. 3) “ALL DOCUMENTS concerning any potential or actual assignment of
- 3                               rights in the NEWS ARTICLE to Righthaven”;
- 4                   ▪       (No. 8) “ALL DOCUMENTS that refer or RELATE TO any ‘monetary
- 5                               commitments’ referenced in the JULY 19, 2010 ASSIGNMENT”;
- 6                   ▪       (No. 10) “ALL DOCUMENTS that refer or RELATE TO any ‘right of
- 7                               reversion’ referenced in the JULY 19, 2010 ASSIGNMENT”;
- 8                   ▪       (No. 11) “ALL DOCUMENTS that refer or RELATE TO any ‘good and
- 9                               valuable consideration’ referenced in the JULY 19, 2010 ASSIGNMENT”;
- 10                  ▪       (No. 45) “ALL contracts, agreements, investment DOCUMENTS, or other
- 11                               terms between YOU and Stephens Media.

12           7.       Righthaven, for its part, failed to respond or object to any of the Requests for

13       Production by the due date of January 18, 2011. When Righthaven did ultimately respond to the

14       Requests for Production, on January 24, 2011, it produced no responsive documents and has, to

15       this date, still produced no documents.

16           8.       On February 28, 2011, after an extended meet and confer process, Stephens

17       Media made its first production of documents, totaling 94 pages, including a document Bates

18       numbered SM000078 – SM000094, a true and correct copy of which is attached hereto as Exhibit

19       A.

20           9.       Defendants are submitting this document to the Court immediately to ensure that

21       the Court has access to it while considering the pending motions.

22           10.      Although counsel for Defendants have requested to receive the additional

23       document referred to in Paragraph 2 of Exhibit A, it has not yet been provided by either

24       Righthaven or Stephens Media.

25           11.      Stephens Media produced Exhibit A designated “Confidential Attorneys Eyes

26       Only” under the Stipulated Protective Order in this action. Dkt. 65. Defendants do not believe

27       that a filing of Exhibit A, or at least the entirety of Exhibit A, is appropriately withheld from

28       public view under the Stipulated Protective Order or governing law. Accordingly, pursuant to

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Paragraph 19 of the Stipulated Protective Order, we have requested, in writing, that Stephens Media and Righthaven agree within five days that Exhibit A may be filed not under seal, in whole or in part. In the event that we are able to reach agreement with Stephens Media and Righthaven, it is our intention to file a stipulation as to which portions of Exhibit A, if any, are to remain under seal.

12. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on March 4, 2011, in San Francisco, California.

/s/ Laurence F. Pulgram  
Laurence F. Pulgram  
Fenwick & West, LLP

**EXHIBIT A**  
**Filed Under Seal**